

Billie L.M. Addleman, #6-3690
John P. Fritz, #7-6318
HIRST APPLGATE, LLP
P. O. Box 1083
Cheyenne, WY 82003-1083
Phone: (307) 632-0541
Fax: (307) 632-4999
baddleman@hirstapplegate.com
jfritz@hirstapplegate.com

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

CUSTODIA BANK, INC.	}	
	}	
Plaintiff,	}	
	}	
vs.	}	Civil No. 1:22-cv-00125-SWS
	}	
FEDERAL RESERVE BOARD OF	}	
GOVERNORS and FEDERAL RESERVE	}	
BANK OF KANSAS CITY,	}	
	}	
Defendants.	}	

***DEFENDANTS' JOINT UNOPPOSED MOTION FOR
LEAVE TO FILE REPLY BRIEFS BY OCTOBER 4, 2022***

Defendant Board of Governors of the Federal Reserve System (the “Board”) and Defendant Federal Reserve Bank of Kansas City (“FRBKC” and, collectively, Defendants), by and through the undersigned counsel, hereby move this Court for leave to file a reply brief in support of Defendants’ respective motions to dismiss (ECF Nos. 48-51) and in response to pending amicus briefs. On Tuesday, Plaintiff filed a 45-page memorandum of law in opposition to Defendants’ motions to dismiss raising new arguments concerning complex questions of administrative and constitutional law. (ECF No. 58). Yesterday, Defendants were notified that at least 3 amicus briefs

HIRST APPLGATE, LLP
LAW OFFICES
P.O. BOX 1083
CHEYENNE, WYOMING 82003-1083

will be submitted to this Court in support of Plaintiff, including briefs to be filed on behalf of representatives of Wyoming and United States legislators. For these reasons, Defendants seek leave of Court to file respective reply briefs that respond to arguments that amici will raise as well as arguments made in Plaintiff's Opposition.

1. Plaintiff filed its *Complaint*, ECF No. 1, on June 7, 2022.

2. On August 9, 2022, the Court entered its *Order Permitting Briefs in Excess of 25 Pages*, ECF No. 35, allowing the Board and FRBKC to each file briefs in support of their respective motions to dismiss not to exceed 45 pages.

3. On August 16, 2022, the Board and FRBKC filed motions to dismiss with supporting memoranda of law. (ECF Nos. 48-51).

4. On September 13, 2022, Plaintiff filed its 45-page Opposition as well as a request for a hearing on Defendants' motions. (ECF No. 59).¹

5. This Court granted Plaintiff's request and set a hearing on Defendants' motion to dismiss for October 13, 2022 at 1:30 PM. (ECF No. 60).

6. Defendants understand that (1) membership of the Select Committee on Blockchain, Financial Technology and Digital Innovation of the Wyoming Legislature, (2) the Wyoming Attorney General on behalf of the State of Wyoming, and (3) members of the U.S.

¹ In its request for a hearing, Plaintiff requested an oral argument 60 minutes in length, with 30 minutes allotted to Plaintiff. Plaintiff represented that Defendants consented to the relief sought. While Defendants had conveyed their support for oral argument in addition to reply briefs, they had made no representations to Plaintiff concerning the length of any oral argument or the division of time, and had also represented to Plaintiff that they would be seeking leave of court to file reply briefs (to which Plaintiff consented). Defendants are supportive of having oral argument in addition to reply briefs, and Defendants defer to the Court's judgment concerning the amount of time needed for oral argument and the division of time.

Senate Banking Committee and U.S. House Financial Services Committee each plan to seek leave of this Court to file amicus briefs by September 20, 2022.

7. Defendants do not oppose those requests.

8. Local Rule 7.1(b)(2)(G) affords Defendants the opportunity to respond to amicus briefs in accordance with Rule 7.1(b)(2) within 14 days after the amicus briefs are filed, *i.e.*, by October 4, 2022. Under the Local Rule, responses to each of these three amicus briefs may be up to 25 pages.

9. Defendants believe that a reply brief to Plaintiff's Opposition is also warranted due to the complexity of the issues presented in the case, including arguments arising under the Constitution and administrative law and concerning interpretation of the Federal Reserve Act.

10. Defendants recognize that Rule 7.1(b)(2)(C) provides that parties shall not file reply briefs for any motion set for hearing. Notwithstanding, given that the Local Rules permit Defendants to respond to amicus briefs, that Defendants believe the Court would benefit from a written submission responding to Plaintiff's Opposition, and that it would be efficient for each Defendant to address both the amicus briefs and Plaintiff's Opposition in a single reply brief to be submitted by each Defendant in advance of the scheduled hearing, Defendants respectfully request the relief sought herein.

11. Accordingly, Defendants each seek leave of Court to file reply briefs of no more than 25 pages—which will address Plaintiff's Opposition as well as the three amicus briefs to be submitted on September 20, 2022—by October 4, 2022.

12. Defendants have conferred with counsel for Plaintiff and Plaintiff consents to the relief sought herein.

Dated: 15 September 2022.

FEDERAL RESERVE BOARD OF
GOVERNORS,
Defendant

s/ Joshua P. Chadwick

Joshua P. Chadwick, Senior Special Counsel
Yvonne F. Mizusawa, Senior Counsel
Yonatan Gelblum, Senior Counsel
Katherine Pomeroy, Senior Counsel
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551
(202) 263-4835
joshua.p.chadwick@frb.gov

*Counsel for Defendant Board of Governors of the
Federal Reserve System*

FEDERAL RESERVE BANK OF KANSAS CITY,
Defendant

BY: s/John P. Fritz

BILLIE LM ADDLEMAN, #6-3690

JOHN P. FRITZ, #7-6318

OF HIRST APPLGATE, LLP

Attorneys for Defendant FRBKC

P. O. Box 1083

Cheyenne, WY 82003-1083

Phone: (307) 632-0541

Fax: (307) 632-4999

baddleman@hirstapplegate.com

jfritz@hirstapplegate.com

Andrew Michaelson (*pro hac vice*)

Laura Harris (*pro hac vice*)

KING & SPALDING LLP

1185 Avenue of the Americas, 34th Floor
New York, NY 10036
Phone: (212) 556-2100
amichaelson@kslaw.com
lharris@kslaw.com

Jeffrey S. Bucholtz (*pro hac vice*)
Joshua N. Mitchell (*pro hac vice*)
Christine M. Carletta (*pro hac vice*)
KING & SPALDING LLP
1700 Pennsylvania Ave NW
Washington, DC 20006
Phone: (202) 737-0500

*Counsel for Defendant the Federal Reserve
Bank of Kansas City*

CERTIFICATE OF SERVICE

I certify the foregoing ***Defendants' Joint Unopposed Motion for Leave to File Reply Briefs by October 4, 2022*** was served upon all parties to this action pursuant to the Federal Rules of Civil Procedure on 15 September 2022, and that copies were served as follows:

John K. Villa
Ryan Thomas Scarborough
Whitney D Hermendorfer
Jamie Wolfe
WILLIAMS & CONNOLLY
680 Maine Avenue SW
Washington, DC 20024
jvilla@wc.com
rscarborough@wc.com
whermendorfer@wc.com
jwolfe@wc.com
Attorneys for Plaintiff

- ☐ U.S. MAIL
- ☐ FED EX
- ☐ FAX
- ☐ HAND DELIVERED
- ☐ EMAIL
- ☒ E-FILE

Scott E Ortiz
WILLIAMS PORTER DAY & NEVILLE
159 North Wolcott, Suite 400
P O Box 10700
Casper, WY 82602
sortiz@wpdn.net
Attorneys for Plaintiff

- ☐ U.S. MAIL
- ☐ FED EX
- ☐ FAX
- ☐ HAND DELIVERED
- ☐ EMAIL
- ☒ E-FILE

Angela Tarasi
KING & SPAULDING LLP
1401 Lawrence Street
Suite 1900
Denver, CO 80202
atarasi@kslaw.com
*Attorneys for Defendant Federal Reserve Bank of
Kansas City*

☐ U.S. MAIL
☐ FED EX
☐ FAX
☐ HAND DELIVERED
☐ EMAIL
☒ E-FILE

Joshua P. Chadwick, Senior Special Counsel
Yvonne F. Mizusawa, Senior Counsel
Yonatan Gelblum, Senior Counsel
Katherine Pomeroy, Senior Counsel
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551
joshua.p.chadwick@frb.gov
yvonne.f.mizusawa@frb.gov
yonatan.gelblum@frb.gov
katherine.pomeroy@frb.gov
*Attorneys for Defendant Federal Reserve Board of
Governors*

☐ U.S. MAIL
☐ FED EX
☐ FAX
☐ HAND DELIVERED
☐ EMAIL
☒ E-FILE

s/Norma J. Hubka
OF HIRST APPLGATE, LLP
Attorneys for Defendant